Manitoba
Office of the Commissioner
Law Enforcement Review Agency (LERA)

Annual Report
2006

Manitoba

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ATTORNEY GENERAL
MINISTER OF JUSTICE

Room 104
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

The Honourable John Harvard
Lieutenant-Governor of Manitoba

May It Please Your Honour:

It is my pleasure to present the *2006 Annual Report of the Law Enforcement Review Agency*.

This report details the agency's accomplishments and activities for the 12-month period ending December 31, 2006.

I trust this meets with your approval.

Yours truly,

Honourable Dave Chomiak
Minister of Justice
Attorney General

Manitoba

Justice

Law Enforcement Review Agency (LERA)
420 – 155 Carlton Street, Winnipeg Manitoba R3C 3H8
T 204 945-8667 F 204 948-1014
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The Honourable Dave Chomiak
Minister of Justice
Attorney General

Dear Minister:

Pursuant to Section 45 of ***The Law Enforcement Review Act***, I am pleased to present the Law Enforcement Review Agency's annual report for the period of January 1, 2006, to December 31, 2006.

Yours truly,

George V. Wright
Commissioner

TABLE OF CONTENTS

TITLE	PAGE
Title Page	1
Minister's Letter of Transmittal	3
Commissioner's Letter of Transmittal	5
Table of Contents	7
Introduction	9
LERA's Mission Statement	9
About LERA	9
What is LERA?	9
To whom does the act apply?	9
What does LERA investigate?	9
Who are complainants and respondents?	10
How is a complaint filed?	10
Are there time limits?	10
How is a complaint investigated?	10
Preliminary screening of complaint	11
Does a complainant need a lawyer?	11
How are complaints resolved?	11
LERA as an Agency	13
Website Overview	13
LERA's Organizational Structure	14
Activities	15
Acknowledgements	17
Case Summaries	18
Commissioner's Decision to Take No Further Action	18
Reviews by Provincial Judge of Commissioner's Decision to Take No Further Action	20
Informal Resolution of Complaints	22
Public Hearings Before a Provincial Judge	24

Legal Developments 31

Contributing Causes 33

Statistical Analysis 34

2006 Statistical Report – Data Tables 36

Table 1: Complaints Listed by Police Service 36

Table 2: Public Complaints 37

Table 3: Investigations Conducted 38

Table 4: Complainant's Allegations 39

Table 5: Incidents Alleging Misuse of Pepper Spray 40

Table 6: Incidents Alleging Misuse of Handcuffs 40

Table 7: Incidents Alleging Injuries from Use of Force 40

Table 8: Disposition of Complaints 41

Table 9: Legal Involvement of Complainants 42

Table 10: Reviews by Provincial Judge of Commissioner's Decision to Take No Further Action 43

Table 11: Referrals of Complaint to Crown for Criminal Investigation 43

Table 12: LERA Complaints where Complainant has also Lodged a Criminal Complaint with Police 43

Table 13: Time Span of Ongoing Investigations Carried Over as of December 31, 2006 44

Table 14: Files Concluded in 2006 by Year of Origin 44

Table 15: Length of Time to Complete Investigations 45

Table 16: Location of Incident 46

Table 17: Complainant Demographics 47

INTRODUCTION

The Law Enforcement Review Act requires the commissioner to submit an annual report on the performance of his duties and functions to the minister and each municipality in the province with an established police department. The minister shall table the report in the Legislature.

LERA'S Mission Statement

The mission of the Law Enforcement Review Agency (LERA) is to deliver a judicious, timely, impartial, client-oriented service to the public and to the police services and police officers within its jurisdiction.

About LERA

What is LERA?

LERA is an independent, non-police agency, established under *The Law Enforcement Review Act* in 1985, to investigate public complaints about police.

LERA deals only with complaints about municipal police performance arising out of the performance of police duties. It does not investigate criminal matters.

LERA is staffed by a commissioner, an administrative officer and professional investigators.

To whom does the act apply?

The act applies to any peace officer employed by a Manitoba municipal police department, including police chiefs. It does not apply to members of the RCMP.

Complaints about members of the RCMP should be directed to the Commission for Public Complaints against the RCMP, at www.cpc-cpp.gc.ca or by calling, toll free, 1-800-665-6878. Complaints about RCMP members received by LERA will be forwarded to the Commission for Public Complaints (CPC).

What does LERA investigate?

LERA investigates citizen allegations that municipal police officers have committed any of the following:

- abuse of authority, including:
    - making an arrest without reasonable or probable grounds
    - using unnecessary violence or excessive force
    - using oppressive or abusive conduct or language
    - being discourteous or uncivil
    - seeking improper monetary or personal advantage
    - serving or executing documents in a civil process without authorization
    - differential treatment without reasonable cause on the basis of any characteristic set out in subsection 9(2) of *The Human Rights Code*
- making a false statement or destroying, concealing or altering any official document or record
- improperly disclosing any information acquired as a member of the police department
- failing to exercise discretion or restraint in the use and care of firearms
- damaging property or failing to report the damage

- failing to assist where there is a clear danger to the safety of a person or property
- violating the privacy of any person within the meaning of *The Privacy Act*
- contravening any part of *The Law Enforcement Review Act* that does not specify a penalty for the violation
- assisting, counselling or causing any person to commit officer misconduct

Who are complainants and respondents?

A complainant is any person who feels wronged by the conduct or actions of a municipal police officer in Manitoba and files a complaint. Complainants may file on their own behalf or on behalf of another person. LERA must obtain consent from that person before acting on the complaint.

A respondent is any police officer against whom a complaint has been filed by the public.

How is a complaint filed?

A complaint must be made in writing and signed. Date, time, location and other details of the incident are important and must be included. LERA staff or members of the local police service will help prepare a complaint if asked.

Written complaints may be submitted directly to LERA, a police chief or any member of a municipal police department. Police will forward complaints to LERA.

Are there time limits?

The act requires a complaint to be submitted within 30 days of the incident. The commissioner may extend that limit if there are valid reasons for being unable to submit the complaint on time.

The commissioner may also extend the 30-day filing limit to avoid conflict with court proceedings or ongoing criminal investigations involving a complaint.

How is a complaint investigated?

LERA has professional investigators who interview witnesses, take statements and review reports such as official police records and medical reports. LERA investigators conduct all inquiries they believe are necessary to uncover relevant evidence.

LERA may be contacted at any time to inquire about the status of a complaint. The commissioner remains open to discussion with all parties before making a final decision.

Preliminary screening of complaint

After the investigation, the commissioner will screen the complaint to decide if any further action should be taken. The act requires the commissioner to do this. A decision will be made by the commissioner to take no further action if any one of the following situations arise:

- the alleged conduct does not fall within the scope of misconduct covered by the act
- the complaint is frivolous or vexatious
- the complaint has been abandoned by the complainant
- there is not enough evidence to justify referring the complaint to a provincial judge for a public hearing

If the commissioner decides to close the matter and take no further action, the complainant will be notified in writing. The complainant will then have 30 days from the date of the decision to ask the commissioner to refer the matter to a provincial judge for review. Reviews are arranged by LERA at no cost to the complainant.

Does a complainant need a lawyer?

Complainants do not require a lawyer when dealing with LERA. Complainants and the police are both entitled to legal representation during the process if they choose. However, they must arrange for such services themselves.

If complainants apply for legal aid and are declined, they may, in exceptional circumstances, make a request to the minister of justice to appoint a lawyer to represent them at a hearing.

Police officers in these cases are generally represented by a lawyer under their employment contract.

How are complaints resolved?

The act provides several ways to resolve complaints.

Informal Resolution:

The commissioner must try to resolve the complaint through informal mediation. Both the complainant and the police officer must agree to this process before it can take place. If the complaint is resolved informally, to the satisfaction of both complainants and respondents, no further action is taken and no record of the incident is made on the officer's service record.

Admission of Disciplinary Default:

A respondent can admit to the alleged officer misconduct. The commissioner then reviews the officer's service record and consults with the police chief before imposing a penalty.

Referral to Judge for Hearing:

If a complaint cannot be resolved informally, and there is no admission of officer misconduct, the commissioner must refer the complaint to a provincial judge for a public hearing.

Penalties that may be imposed by the provincial judge on respondent officers under *The Law Enforcement Review Act* are:

- dismissal
- permission to resign, or summary dismissal if the resignation is not received within seven days
- reduction in rank
- suspension without pay for up to 30 days
- loss of pay for up to 10 days
- loss of leave or days off for up to 10 days
- a written reprimand
- a verbal reprimand
- an admonition

LERA as an Agency

The Law Enforcement Review Agency (LERA) is an independent agency of Manitoba Justice, Criminal Justice Division, under *The Law Enforcement Review Act*.

The Lieutenant-Governor in Council charges the minister of justice, as a member of the executive council, with the administration of *The Law Enforcement Review Act*.

The Law Enforcement Review Act authorizes the Lieutenant-Governor in Council to appoint a commissioner.

The commissioner carries out investigations in compliance with *The Law Enforcement Review Act* and has powers of a commissioner under Part V of *The Manitoba Evidence Act*.

LERA is staffed by a commissioner, an administrative officer and three investigators.

LERA's address is:

420-155 Carlton Street
Winnipeg, Manitoba, R3C 3H8
Telephone: 204-945-8667 in Winnipeg; or toll free in Manitoba 1-800-282-8069
Facsimile: 204-948-1014

E-mail: lera@gov.mb.ca

Website: www.gov.mb.ca/justice/lera

Website Overview – 2006

LERA's website went online in September 2000. This site contains the following information:

How to make a Complaint
History
Contact Us
The Law Enforcement Review Act and Regulations
Public Hearings and Reviews
News Releases
Annual Reports
Links
Site Map
Disclaimer & Copyright

2006 Web Trends report:

Visitors – 7,985
Pages viewed – 25,192
Average pages viewed per day – 69
Documents downloaded:

- Complaint Form – 269
- Annual Report – 4,843
- Decisions – 20,081

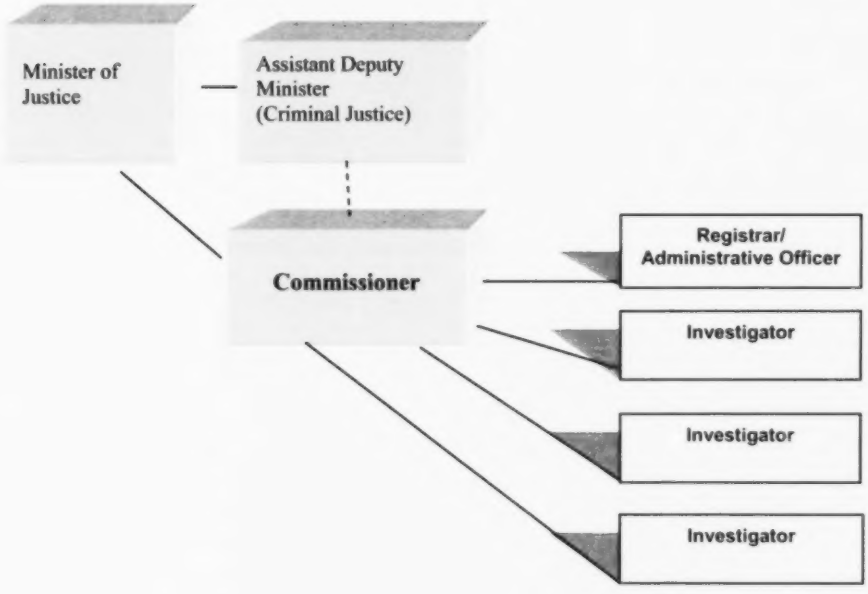
LERA'S Organizational Structure

The commissioner is required to submit an annual report on the performance of his duties and functions to the minister and to each municipality in the province that has established a police department.

From an administrative perspective, the commissioner reports directly to Criminal Justice Division's assistant deputy minister.

LERA's budget for the financial year beginning April 1, 2006 and ending March 31, 2007 is:

Full Time Employees	5
	$(000's)
Total Salaries	$349.7
Total Other Expenditures	$ 76.9
Total	$426.6



Activities

During the year, the commissioner and/or staff:

- received the Deputy Minister of Justice and Deputy Attorney General
- participated in meetings with the assistant deputy minister of justice, Criminal Justice Division
- participated in meetings and discussions with police executives, police associations, members of police services
- attended reviews of the commissioner's decisions and public hearings presided over by a provincial judge acting *persona designate*
- met with the Executive Director Legal Aid Manitoba
- attended and participated in a meeting with the Chiefs of Police of Manitoba Municipal Police Agencies
- met with Executive Director Manitoba Human Rights Commission
- received Winnipeg Police Service Professional Standards Unit staff
- received Dakota Ojibway Police Service Commission member
- participated in joint presentation with Manitoba Ombudsman staff at Manitoba Youth Centre (MYC)
- attended presentation by Mr. Justice Marshall Rothstein, Supreme Court of Canada at The Law Society of Manitoba
- participated in Manitoba Roundtable on Civilian Oversight of Law Enforcement meetings hosted by the Manitoba Metis Federation (MMF)
- made a presentation to Manitoba Ombudsman and staff
- participated in Manitoba Bar Association Law Day open house at Manitoba Law Courts Complex
- attended Manitoba Council of Administrative Tribunals Conference (MCAT)
- attended retirement for Brandon Police Chief
- made presentations to Winnipeg Police Service recruit classes and to a class of recently promoted Sergeants
- received Vice-Chairperson Commission for Public Complaints against the Royal Canadian Mounted Police
- received Manitoba Ombudsman Investigators
- made a presentation to Brandon University class studying Police Organization and Management in a democratic society
- made a presentation to the Manitoba Aboriginal Justice Equality Coalition
- attended graduation ceremonies for Winnipeg Police Service recruit classes
- attended 2006 conference planning session for the Canadian Association of Civilian Oversight of Law Enforcement (CACOLE) in Toronto
- attended and participated on 2006 Montreal Conference for the Canadian Association of Civilian Oversight of Law Enforcement (CACOLE)
- participated on committee meetings reviewing accessibility to LERA by Aboriginal people

- made presentation to Manitoba Justice Victim Services Branch
- made presentation to members of the Winnipeg Police Association
- made presentation Ste. Anne Town Council
- participated on interviews with CBC radio, CFAM - Radio Southern Manitoba (Altona), Winnipeg Free Press
- attended Brandon Police Service Community Appreciation Dinner

Acknowledgements

- members of the public who make their complaints and concerns known to LERA
- complainants and respondents who are able to resolve their differences by informal resolution
- chiefs of police of Manitoba's municipal police services
- police associations and members of Manitoba's municipal police services
- legal counsel and advocates assisting complainants and respondents
- Manitoba Justice officials for their assistance and expertise
- LERA's staff, whose competence and commitment are vital to LERA's success as a civilian monitoring agency
- the many other stakeholders involved in the LERA process

Case Summaries

Commissioner's Decision to Take No Further Action

When LERA receives a complaint, the commissioner assigns an on-staff investigator to conduct an investigation into the complaint. When the investigation is completed, it is the commissioner's job to review the results of the investigation to determine whether to take no further action in cases where:

- *the complaint is frivolous or vexatious*
- *the complaint is outside the scope of the disciplinary defaults listed in section 29 of the act*
- *there is insufficient evidence to justify referring the matter to a public hearing; or the complaint has been abandoned*

In carrying out this duty, the commissioner performs an important gate-keeping function that ensures complaints with no chance of success do not make their way to a public hearing. This function is designed to ensure that the LERA process runs more smoothly and efficiently and to preserve the legitimacy of the LERA process with the public.

Following are samples of cases in which the commissioner decided no further action was required:

- A man was in a house with two other men and a woman, when police arrived to investigate the two other men for threats with weapons. Despite efforts by police to have all the people come out of the house peacefully, none did. Police made the decision to forcibly enter the house and, once inside, arrested all four occupants. The weapons used in the two threat incidents were also recovered. The man filed a complaint alleging physical assault and verbal abuse during this arrest.

  Because the man claimed he had been injured by police, he signed a medical release form and a medical report was obtained from his doctor. This medical report did not support his claim of alleged injuries during the arrest.

  Interviews with the officers revealed totally different versions of the event.

  The commissioner said there was insufficient evidence for a hearing and declined to take any further action on the file.

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- A man complained he had been assaulted by police after being arrested for mischief and taken to the police station. A witness alleged the man had been seen breaking a window of his ex-girlfriend's van. The police report stated the man became violent when police were about to remove his handcuffs at the police station. During the scuffle to control him, the man received minor injuries.

  When the officers were interviewed, they confirmed the police and use of force reports. They denied the man was kicked or punched when he was subdued; stating he was wrestled to the floor where the handcuffs were removed.

  The commissioner said there was insufficient evidence for a hearing and declined to take any further action on the file.

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- A woman and her niece were arrested for shoplifting. After being taken to the police station, the woman said one officer had come into the interview room, verbally abused her and struck her in the face. The woman claimed she had seen a doctor about the injuries.

When the officers were interviewed, they said no officers were ever alone with the woman at the police station. They denied any abuse and described the arrest as a routine shoplifting case.

The doctor's report stated the woman had been to the clinic three weeks before the incident. The doctor saw her at her residence nine days after the incident for an unrelated medical problem and she did not make any complaint of assault then. The doctor suggested that the woman's complaint/action were at least irresponsible and at worst fraudulent and/or mischievous.

The commissioner said there was insufficient evidence for a hearing and declined to take any further action on the file.

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- A woman called police to complain about a noisy party. Police attended and told her neighbours to keep it down. Later that day, things escalated. The woman called police again and another officer attended. He took a statement from the woman because she wanted charges laid against the neighbours holding the party. The woman later wrote to the mayor stating that, if the police did not charge the noisy residents, she would file a complaint against the officers. When the second investigator advised the woman that no charges would be laid against the noisy residents, the woman filed a LERA complaint against both officers. She also alleged that the officers' conduct was discriminatory because they did not charge the noisy residents when she had been charged previously by police for the same thing.

  Failing to lay a charge is not a disciplinary default under LERA and the commissioner could not find anything contrary to *The Human Rights Code* to justify a default under *The Law Enforcement Review Act*.

  The commissioner said that the complaint did not fall within the scope of The Law Enforcement Review Act *and declined to take further action on the file.*

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- A man planned on attending a party with a friend. On the way to the party, the friend asked him to stop at another friend's place. While the man was waiting in his car, he claimed another man came out of the house and forced him to drink some liquor. The man then drove off and claimed he could not remember much until he got to jail. He said the police had assaulted him causing injuries severe enough to require stitches to his head. He also claimed officers physically abused him at the jail when they booked him.

  The police report stated the man was involved in a dispute where a group of men threatened him if he didn't leave the area. An independent witness saw him behind the wheel of his car trying to drive away from the lane where he had been parked. The man drove out to the street and crashed into a house. The same witness saw that the man was injured and bleeding from the head. When the man heard that the police and ambulance service had been called, he tried to get out of his car. The witness held the door shut. The ambulance drivers took the man to the hospital before the police arrived at the scene. After the man was attended to by hospital staff, he was taken to the police station for a breathalyzer test and then taken directly to jail. The video tape of his booking at the jail did not support his allegation of physical abuse while being booked.

  The commissioner said that the complaint was filed for an improper purpose as none of the things alleged to have happened were true. The commissioner found the complaint was vexatious and declined to take any further action.

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Reviews by Provincial Judge of Commissioner's Decision to Take No Further Action

When the commissioner declines to take further action on a complaint, the complainant may apply to the commissioner to have the decision reviewed by a provincial judge. Section 13(2) of The Law Enforcement Review Act *says the commissioner must receive this application within 30 days after the date the decision was sent to the complainant.*

Once the commissioner receives an application for a review he sends it to the chief judge of the Provincial Court who assigns a judge to hold a review hearing. At the hearing the judge must decide whether the commissioner erred in refusing to take further action on the complaint.

Following are samples of these applications.

- A man went to the police station to file a criminal complaint against various public officials. The police declined to further investigate the complaint and would not make criminal charges against anyone. The man then filed a complaint with LERA complaining the police would not investigate his criminal complaint.

  The commissioner declined to take further action because the man's complaint did not fall with LERA's mandate to investigate. The commissioner also explained that criminal investigations are the responsibility of the chief of police and decisions to lay criminal charges are the responsibility of the director of prosecutions, Manitoba Justice. The man asked to have a provincial judge review the commissioner's decision.

  DECISION: The provincial judge held that the commissioner had not erred in declining to take further action on this complaint.

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- A man complained he had been assaulted by a police officer after being taken to jail. He also complained the officer had threatened to throw him over a desk if he did not co-operate. The jail guards who helped restrain the man at the jail supported the officer in denying that any assault or threat was made towards the man.

  The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. The man asked to have a provincial judge review the commissioner's decision.

  DECISION: The provincial judge held that the commissioner had not erred in declining to take further action on this complaint.

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- A young man was stopped by police while driving a car without a driver's licence. He claimed the officers were verbally and physically abusive to him when he was stopped. He also alleged that, when he was brought home by the officers, one pulled him out of the police car and punched him in the face several times. The young man's stepfather was waiting at the front door when the police arrived. He clearly contradicted the young man's allegation of what happened when the police brought the young man home.

  The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. The young man asked to have a provincial judge review the commissioner's decision.

  DECISION: The young man failed to attend the review hearing so the judge dismissed his complaint.

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- A man was drinking at a hotel and went out to the lobby, with a beer in his hand, to use a telephone. He was stopped by the hotel security officers who demanded that he give them the beer as he could not have it in the lobby. A struggle took place and a second security officer helped control the man. When police arrived, the man was taken to jail because he had breached previous court conditions not to possess or drink alcohol. The man later tried to file assault charges against the security officers. One of the officers assigned to take his complaint had been the first to go to the hotel when the man had been arrested. Since he knew the circumstances at the hotel, the officer did not accept the man's complaint. The man's version of the incident differed significantly from what the officer knew had actually happened. Video tape of the hotel lobby incident clearly showed the man's allegations were not correct.

  The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. The man asked to have a provincial judge review the commissioner's decision.

  DECISION: The provincial judge held that the commissioner had not erred in declining to take further action on this complaint.

******

- A woman complained that her son and his friend had been stopped by police when driving her car. The officers allegedly conducted an illegal search of her car and detained her son and his friend. She also complained that her car had been driven to the police station by an officer without her permission and that her car had been damaged by police.

  The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. The woman asked to have a provincial judge review the commissioner's decision.

  DECISION: The woman failed to attend the review hearing so the judge dismissed her complaint.

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Informal Resolution of Complaints

Under Section 15, the LERA commissioner provides the complainant and respondent with an opportunity to informally resolve the complaint. The process is often, but not always, successful. To be successful, the process must satisfy each of the parties involved. There is no single model for informal resolution. They can range from a simple explanation of a police officer's action or a discussion to clear up a misunderstanding, to an apology or reimbursement for damages caused in the incident.

Following are examples of complaints resolved informally in 2006:

- Police went to a residence in response to a drunk driving complaint. They found the man there in a highly intoxicated state and arrested him for impaired driving. The man had denied driving while impaired, even though witnesses who knew him said they had seen him driving. The man claimed that the arresting officers used excessive force and had injured him.

  The complaint was resolved informally with a meeting between the man and one of the officers involved.

  ******

- A woman was driving her car, accompanied by her two small children, when she noticed a police car behind her. Thinking the police car was about to pass her, she pulled into the median lane to let it by. The police car moved into the same lane and an officer motioned her to stop. After obtaining her particulars, he instructed her to move her car to the right when safe to do so. When she moved to the right, she parked in a restaurant parking lot. While the officer was writing up the traffic ticket, the woman became impatient and walked up to the police car and became involved in a verbal confrontation with the officer. As she was returning to her car, the officer jumped out of his car and arrested her for obstruction. When the matter came to court, the woman plead guilty to speeding but the charge of obstruction was stayed. The woman's lawyer raised the issue that the arrest had been unnecessary and that it was humiliating and embarrassing for her to have been arrested in front of her children.

  The matter was referred to a hearing alleging two defaults being committed by the officer. One was for arresting the complainant without reasonable and probable grounds and the other for using oppressive or abusive conduct or language on the complainant. After the hearing date was set, both parties agreed to resolve the matter informally. The judge approved of the informal resolution.

  The complaint was resolved informally with a meeting between the woman and the officer involved.

  ******

- A young man was driving his father's vehicle, accompanied by two friends, when he was stopped by police. The man and his friends did not see any reason for them to be stopped. The man was searched by one of the officers and the vehicle was also searched. The man also claimed that he had been detained for an excessive amount of time at the traffic stop.

  The police stopped the man for imprudent driving. The man was ticketed for this offence as well as faulty equipment. He was given a third ticket for open liquor in the vehicle.

  At court, the man plead guilty to the vehicle offences and the liquor ticket was stayed.

  The complaint was resolved informally with a meeting between the man, his advocate and the officers involved.

******

- A woman had been involved in a domestic dispute with her husband. The husband called police. When the police arrived, the woman stated that one of the officers was verbally abusive to her.

  The police found the woman was being verbally abusive to her husband and to the officers.

  During the incident, the woman suffered a panic attack and the officers summoned an ambulance. Once she had been attended by the paramedics, the officers assisted the husband and child to leave the house to stay with relatives.

  The complaint was resolved informally with a meeting between the woman and the officers involved.

******

- A man was walking home from university when a vehicle stopped in the middle of the road and the driver asked if his name was Michael. The man said it was not and started to walk away. The driver got out of his vehicle and told the man he was a police officer and that he wanted to talk to him. The man continued to walk away insisting that he was not the man this person was looking for. He was pursued but eventually eluded the driver and called police, giving them the licence number of the vehicle.

  The driver was an off duty police officer who had been asked by an elderly couple for help. They were trying to find their son who had a mental disability and had disappeared from their place. As it happened, the description of the missing son was close to that of the man that the officer spoke to.

  The complaint was resolved informally with a meeting between the man and the officer involved.

******

Public Hearings before a Provincial Judge

Public hearings under The Law Enforcement Review Act *(*TLERA*) are held before provincial judges. They do not sit in their usual capacity as members of the Provincial Court. A public hearing is only held after a matter has been referred by the commissioner under Section 17.*

Where a public hearing has been referred by the commissioner, Section 27(2) of TLERA *states: "The provincial judge hearing the matter shall dismiss a complaint in respect of an alleged disciplinary default unless he or she is satisfied on clear and convincing evidence that the respondent has committed the disciplinary default."*

The "clear and convincing evidence" standard was added to the act in 1992. It is not worded the same as the more traditional standards that are used in other contexts. In criminal cases the standard is "beyond a reasonable doubt," which was used in the act until 1992. In civil cases, the standard is "balance of probabilities." Provincial judges have held that the "clear and convincing evidence" standard falls between the civil and criminal standards of proof.

Following are the results of public hearings on the merits of complaints heard in 2006:

- A man went to a store in a mall to buy a freezer. He was approached by two officers who were in the store on other business. He was questioned about being a shoplifter who had been barred from entering that store. He told the officers that he was not a shoplifter and walked away to use the washroom. He was grabbed by one of the officers, spun around and pushed into a wall. As a result of being detained in such a manner, the man was not able to get to the washroom in time and soiled his pants.

  Officer Misconduct: two police officers

  Allegations: Abuse of authority by using oppressive or abuse conduct or language on the complainant.

  Disposition: The judge ruled that the complainant was definitely not a shoplifter. He also ruled that one of the officers was not in default as he was merely at the scene and took no action. The other officer, however, had been mistaken in suspecting the man had been a shoplifter that he had previously dealt with at the store. The man was of similar description to the shoplifter and he lived on a street which had a similar name to that of the shoplifter. The judge ruled that, despite the office's error, he had acted in good faith and had not used abusive conduct or language under the circumstances. Therefore, he dismissed the complaint against the other officer.

******

- Two officers were driving an unmarked police car when they were passed by a speeding vehicle. They chased and stopped the vehicle and identified the driver. As they did not have traffic tickets or provincial offence notices in their car, they told the driver they would serve the appropriate offence notice the next day at his residence. The man driving the car was verbally abusive to the officers at that time. The next day, when the officers went to serve the offence notice, the man physically attacked them and a violent confrontation took place. The man was subdued and taken to the police station. At the police station, the man claimed that he was alone in an interview room when one of the officers came in and physically abused him causing injuries.

  Officer Misconduct: one police officer

Allegations: Abuse of authority by using unnecessary violence or excessive force and by using oppressive or abusive conduct or language on the complainant.

Disposition: The judge noted that the complainant had plead guilty to assaulting a police officer and to the speeding offence. He also noted that the complainant was the author of his own misfortune by attacking the officers at his residence and he seriously doubted the allegation that the man was assaulted by an officer in the interview room. The judge did not think it would have been logical for an officer to be alone with the man after the confrontation where the two of them had considerable difficulty with him. The judge dismissed the alleged defaults against the officer.

******

- A man had called the police station a number of times to ask about the status of his complaints alleging assaults on him by officers. The officer handling the investigation made a number of return calls and left messages on the man's telephone answering machine. During one of these return calls, the officer did not hang up his phone properly and his comments about the man were picked up by the answering machine. The man was offended by the comments and filed a LERA complaint.

  Officer Misconduct: one police officer

  Allegations: Abuse of authority by oppressive or abusive conduct or language on the complainant.

  Disposition: At the hearing, the officer admitted the default of using oppressive or abusive language about the complainant but denied that the comments were meant to be heard by the complainant. In light of the admission of the default, the judge ordered that a written admonishment would be the penalty.

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- A woman rode home on her bicycle after an evening out. When she arrived home, she saw some neighbours, with whom she had had bad relations, standing outside, and got into a verbal confrontation with them. This escalated to a physical confrontation and police were called. The woman was arrested for assault and taken to the police station. The woman accused the officers of being rude to her and not willing to hear her side of the events. When the police had first arrived on the scene after the physical confrontation, the woman was the one heard making loud racist remarks towards her neighbours.

  Officer Misconduct: two police officers

  Allegations: Abuse of authority by searching a residence without lawful authority, using unnecessary violence or excessive force, using oppressive or abusive conduct or language, and being discourteous or uncivil to the complainant.

  Disposition: After several pre-hearing meetings, a hearing date was finally arranged. However, the complainant chose to write a long letter to the judge explaining her side of events rather than appearing at the hearing. The judge dismissed the complaint because the complainant failed to appear.

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- The police had obtained a search warrant alleging that a handgun and ammunition were to be found hidden in a residence. At the residence, they made a dynamic entry causing damage to the front door and door frame. Two men were found inside and were handcuffed while the search was conducted. The handgun and ammunition were not found, but some stolen property was recovered. After the search was over and the men had been released, they filed a complaint that the police had caused considerable damage during the search.

  Officer Misconduct: five police officers

  Allegations: Abuse of authority by damaging property during the execution of a search warrant at the residence of the complainant.

  Disposition: The judge dismissed the complaint. He stated that, considering the search was for a firearm and ammunition, the officers involved conducted a reasonable and proper search.

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- A woman was visiting her boyfriend when his roommate called to them that another stolen vehicle was being dropped off in his yard. This was allegedly a regular occurrence in that neighbourhood. While the boyfriend was outside trying to catch the kids responsible, the woman called 911 for help. The police did not respond. Two more incidents happened that evening with kids dropping off stolen vehicles. During the third incident, the boyfriend was able to catch one of the kids. During each incident, the woman called 911 but police did not respond. Shortly after the child was caught, friends of the child showed up and demanded his release. One had a shot gun and fired a shot at the couple. The woman was on the phone calling 911 again when the shot was fired. Police arrived shortly afterward and, after talking with neighbours who did not hear gun shots, checked for gun shot damage to the house. Finding none, they concluded that no shots had been fired. The officers did not check the woman's car for damage. When she checked her car several days later, she found gun shot damage. Officers assigned to re-investigate the incident confirmed that a shot had been fired and that the woman's car had been damaged.

  Officer Misconduct: two police officers

  Allegations: Abuse of authority by using oppressive or abusive conduct or language, being discourteous or uncivil, and by being present and failing to assist any person in a circumstance where there is a clear danger to the safety of that person or the security of that person's property.

  Disposition: When the pre-hearing conference was held, one of the two complainants did not show up. The other complainant then withdrew the complaint and the judge closed the file.

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- A woman was driving her car, accompanied by her husband and young son. As she was driving, she noticed a police car behind her with its lights on. She changed lanes to let the police car pass, but the police car pulled in behind her. Realizing that the police officer wanted her to stop, she turned the corner and stopped the car. The police officer came up to the car and asked the woman for her driver's licence and registration. The woman asked the officer why she was being stopped. The officer told her he thought her son, who was sitting in the back seat, was not wearing his seat belt. When the officer saw that her son was in fact wearing a seat belt, he made a rude comment about the boy looking at the officer. When the woman asked if it was illegal to look out the rear window, the officer yelled at her. The officer then returned the licence and registration to the woman and used foul language when he told her to leave. When she asked what he had said, the officer repeated the comment. She got out of her car and demanded his badge number. The officer yelled out his badge number, got in his car and sped off.

Officer Misconduct: one police officer

Allegations: Abuse of authority by being discourteous or uncivil towards the complainant.

Disposition: The matter was resolved informally before the start of the hearing and the judge closed the file.

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- A man had been involved with his noisy neighbours to the extent that he used his video camera to record the noise levels. One of the noisy neighbours filed a complaint with police accusing the man of pointing the camera at her window and videotaping her. When the officers came to speak with the man, one officer in particular was verbally abusive to him and would not listen to what had been recorded. The other officer did not prevent the first officer from being abusive to the man and mainly just witnessed the verbal exchange between the first officer and the man. The commissioner declined to take further action on the man's complaint and the man asked for a review of the commissioner's decision. At the review hearing, the judge dismissed the complaint against the second officer and ordered that a public hearing be held respecting the first officer's conduct.

  Officer Misconduct: one police officer

  Allegations: Abuse of authority by using oppressive or abusive conduct or language and by being discourteous or uncivil towards the complainant.

  Disposition: The judge ruled that there was nothing in the complainant's evidence other than allegations, theories of conspiracies and theories about the behaviour of the officer. He also ruled that there was no proof presented to support the theories and dismissed the complaint against the officer.

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- An officer was on duty in uniform when he stopped at an apartment complex to speak with a friend of his about an upcoming trip they were planning to take. When his friend answered the doorbell, the officer greeted him in a loud voice using unprofessional language. When the friend advised the officer that his landlady was present, the officer said he was sorry and said he wouldn't have used the language he did if he knew someone was present. The landlady was offended by the officer's comments and filed a complaint. In her complaint, she also related how the officer had illegally parked his police car in such a way that it blocked the sidewalk. When she spoke to the officer about this, she described his attitude as being arrogant.

  Officer Misconduct: one police officer

  Allegations: Abuse of authority by being discourteous or uncivil towards the complainant.

  Disposition: Prior to the matter being forwarded to a hearing, the officer admitted the default to the commissioner and received a penalty of a verbal reprimand which was imposed by the officer's chief of police. The commissioner closed the file.

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- A man had been to a night club with several of his friends. When he and his friends went outside at closing time, he noticed another friend involved in a fight. The police were already at the scene

and quickly broke up the fight. The man went to see if his friend was all right, and was shoved by an officer who was trying to disperse the crowd. The man thought the officer was too rough with him so he swore at the officer. The officer immediately grabbed him and allegedly punched him in the face several times. Subsequently, other officers helped arrest the man. He was later charged under *The Liquor Control Act* for being disorderly in or near a licensed premise. The man denied being aggressive towards the officer or resisting arrest.

Officer Misconduct: one police officer

Allegations: Abuse of authority by using unnecessary violence or excessive force on the complainant.

Disposition: The judge dismissed the case against the officer because the complainant had failed to respond to letters from the court to set a date for a hearing.

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- A man was in his apartment when he heard his friend calling his name. He went to the door and saw his friend fighting with someone, trying to get away from him. The other person ran away when the man answered the door. Since the man had no telephone, he went to the friend's apartment to call the police. While waiting for the police, the man tried to stop the bleeding of his friend's wounds. When the police arrived, the man went back to his apartment to clean up and then returned to the friend's apartment to see if he could provide any further help. He was grabbed by the officers, handcuffed, and placed on the floor, face down. When the friend had been removed by paramedics, two officers took the man out of the apartment. While they waited outside the apartment, a third officer came out and allegedly punched him in the face and head. A fourth officer then came out and allegedly started punching the man while the first two officers held him.

  Officer Misconduct: four police officers

  Allegations: Abuse of authority by using unnecessary violence or excessive force on the complainant.

  Disposition: Counsel for the officers had filed a pre-hearing motion alleging that the complaint was not specific in identifying which officer did what during the alleged use of excessive force on the complainant. The judge ruled that the complaint was sufficiently specific in that two officers allegedly held the complainant while the other two struck him.

  At the subsequent hearing, the judge ruled that there were too many inconsistencies between the complainant's evidence, affidavit and initial complaint. These inconsistencies, coupled with evidence from independent civilian witnesses that contradicted the complainant, did not convince the judge that events happened as alleged by the complainant. The judge dismissed the complaint against the officers.

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- Police were called to a residence where a man had been trying, without success, to get his jacket and hat back. They were invited in by another man to retrieve the items when a woman came down from the second floor screaming at the officers to get out. She attacked one of the officers and was subsequently subdued, receiving injuries in the process. She claimed that the man who invited police to enter had no authority to do so because he was a guest and not a resident.

  Officer Misconduct: two police officers

Allegation: Abuse of authority by entering the complainant's residence without lawful authority and by using unnecessary violence or excessive force on the complainant.

Disposition: The complainant did not attend the hearing so the judge dismissed the case.

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- A woman and her mother were staying at a hotel where she had a considerable amount of alcohol and described herself as intoxicated. She had gone outside for a cigarette and, when she tried to get back into the hotel, she was refused entry by hotel staff. She had a room card but, since her name was not registered, the hotel clerk would not let her in. She tried to get help from a passing police car but the officer arrested her instead. She was given several opportunities to call a lawyer, but she only wanted to call her mother to tell her where she was. This request was refused.

  Officer Misconduct: one police officer

  Allegations: Abuse of authority by failing to allow the complainant to retain and instruct counsel.

  Disposition: The judge ruled that there was no right to call one's mother and that the officer was correct in declining that request. The judge also ruled that the complainant had a reasonable opportunity to call a lawyer, but refused to, and the complaint was dismissed.

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- A man had held a party at his mother's apartment and drank a lot of alcohol before passing out. He recalled police coming to the residence in the morning, arresting him and taking him to the drunk tank. Based on what his friends had told him, he claimed that the officers assaulted him causing injuries. He had said he had no personal memory of what actually happened to him. The officers had gone to the apartment in response to a hang-up 911 call. While escorting the man in the hallway, he pulled away from the officers, lost his balance and fell, hitting his head and causing a cut to his eyebrow.

  Officer Misconduct: two police officers

  Allegation: Abuse of authority by arresting the complainant without lawful authority, using unnecessary violence or excessive force and by damaging property and failing to report the damage.

  Disposition: At the hearing, the judge had been presented with a motion by the officers' legal counsel about the fact that there had been an inordinate delay in notifying the officers of the complaint against them. The judge found that 15 months had passed between the time the complaint came in and when the officers received official notification of the complaint. The judge ruled that the delay in notifying the officers was too long and dismissed the case.

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- Police had gone to a residence with a search warrant to search for stolen weapons. A man, woman and their nine year-old son were ordered to come out of the house, one at a time, with their hands over their heads. The man was handcuffed and placed into a police car while the woman and her son were put into another police car without handcuffs. While the officers were searching the house, one officer's handgun accidentally discharged causing damage to the

house. During the time that the family was detained, the woman was never advised of her rights or allowed the opportunity to call a lawyer.

Officer Misconduct: six police officers

Allegations: Abuse of authority by failing to inform the complainants of the reason for detention, failing to inform of the right to retain and instruct counsel without delay, by using oppressive or abusive conduct or language, by being discourteous or uncivil to the complainants and by failing to exercise discretion or restraint in the use and care of firearms.

Disposition: The judge found one senior police officer in default for failing to advise the woman of her rights or allowing her to call a lawyer. A second officer was found in default of being discourteous or uncivil in failing to offer the son food, drink, bathroom facilities and other considerations. The defaults against the other four officers were dismissed. The penalty hearing has not been set. A notice of appeal has been entered in the case, but has not been heard yet.

- A man complained that police had illegally searched his apartment based on uninformed consent given by his landlady. The police allegedly went to the residence looking for a friend of the man. This friend was being investigated on domestic assault and a stolen vehicle complaint. The landlady alleged that she had been intimidated by the officers into allowing them to search the man's apartment, as well as her own apartment.

  Officer Misconduct: two police officers

  Allegation: Abuse of authority by entering the complainant's residence without lawful authority.

  Disposition: The matter was referred to a public hearing but, before the hearing took place, the matter was resolved informally.

Legal Developments

Section 17 Hearings

Complaint #5688
A complaint was filed with the Commissioner and LERA began an investigation by writing to the Chief of Police to determine the identities of the officers involved. This information was received and normally a letter would have been sent out to the officers, with a copy of the complaint. The Act requires that the Commissioner do this as soon as is practicable. However, before the letters were sent the Commissioner's office became aware that the officers were under criminal investigation. Normally, at this point the Commissioner would send a letter to the respondent officers advising them of the complaint and indicating that the LERA investigation would be held in abeyance while the criminal investigation proceeded. Through inadvertence this was not done until after LERA was advised that the criminal investigation was concluded. The judge found that the Commissioner had not provided the respondents with a copy of the complaint as soon as was practicable and that this failure was fatal to the jurisdiction of the Commissioner. The complaint was dismissed.

Complaint #6180
During a search of their house for a firearm, the complainant and her son were placed in a cruiser car by police. The judge found that the police had detained them for over two and a half hours. During this time they were not advised of their right to counsel or informed to why they were being detained. The judge also found that they were not offered food, drink, bathroom facilities or other considerations.

The officer in charge of the scene was found to have committed a disciplinary default for failing to advise of these rights under the *Canadian Charter of Rights and Freedoms*. The officer was given a written reprimand. Another officer in whose cruiser car the complainant and her son were detained was found to have committed a disciplinary default by being discourteous or uncivil towards the complaint and her son by failing to offer the child food, drink, bathroom facilities and other considerations. That officer was given an admonishment (a less serious penalty than a reprimand that does not appear on the officer's service record).

This case confirms the principle that a Charter breach by an officer can, in some circumstances, give rise to a disciplinary default. The officers have brought judicial review proceedings to have this case overturned

Complaint #6142
A complainant alleged that he was assaulted by four officers during the course of an incident which resulted in his detention. He alleged that two officers held him while two other officers struck him in a stairwell. He was not able to identify the officers or which officers allegedly hit him and which held him. Through investigation the Commissioner was able to determine which officers were present during the incident, but no further detail as to which officer might have done what alleged action. The matter was referred to a hearing before a provincial judge alleging that the officers had used excessive force against the complainant.

The respondent officers brought a motion to dismiss the alleged defaults. The respondents said that they are entitled to know the allegations being made against them and that the referral did not provide detail about what each of them was alleged to have done. The judge held that it was clear from the investigation file that the referral was being made because of the allegations that two officers had held the complainant while two others had struck him. The judge also ruled that though it was not possible for the Commissioner to identify and allege "which officer did what" (i.e. which officers held the complainant and which struck him) the respondent officers knew what was being alleged and were in a position to respond. The allegation was specific; it alleged involvement in one of two very limited and interconnected ways. The respondent officer's motion was dismissed.

Section 13 Review of Commissioner's Decision

Complaint #2004/172

The judge revisited the appropriate test to be applied when a provincial court judge reviews a decision by the Commissioner to take no further action on a complaint. The judge held that where the Commissioner's jurisdiction is at issue, the judge must apply the most exacting of review standards; he or she must determine whether the Commissioner was correct.

If the Commissioner's jurisdiction is not in question, but rather the investigation or the assessment of the evidence is being questioned by a complainant, the judge must determine whether the investigation and assessment and evaluation of the evidence was "reasonable". The judge must then examine the "rationality" of the Commissioner's conclusion. If the Commissioner's conclusion can be seen as rationally consistent or coherent with a reasonable assessment of the evidence, then the Commissioner's decision should not be disturbed.

Contributing Causes

Section 22 of *The Law Enforcement Review Act* states:

> *"When the commissioner identifies organizational or administrative practices of a police department which may have caused or contributed to an alleged disciplinary default, the commissioner may recommend appropriate changes to the chief of police and to the municipal authority which governs the police department."*

Recommended changes follow:

- A woman had reported to the police that her 17- year-old daughter was missing. She reported two possible addresses where the daughter might be and gave reasons why she couldn't check these locations herself. The shift supervisor did not assign this matter to an investigator at the time because all officers were tied up with other complaints. He also did not contact the woman to inform her of this and apparently did not pass on this complaint to the next shift.

  When the woman called the next day, she discovered that the next shift was not aware of her report and nothing had been done to check the whereabouts of her daughter. Subsequently; checks were made, but the daughter was not found. The woman filed a complaint alleging that the second officer had been discourteous and uncivil to her when taking her information.

  The commissioner felt that no default under *The Law Enforcement Review Act* had been committed by the officer because he was not aware of the initial report. He was concerned, however, that departmental policy on referring complaints to the next shift was possibly not followed.

  The commissioner wrote to the chief of police suggesting a review of the situation and make appropriate changes, if necessary.

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- Police went to a residence looking for a suspect in a serious assault where the victim was severely injured. The man, who answered the door, stated that the suspect was not there, so the officers left. Several hours later, other officers came back to see if the suspect had returned. The man became angry when told that the officers would keep coming back until they found the suspect. Reluctantly, the man allowed the officers to search his house to confirm that the suspect was not there. The man filed a complaint that the officers had pushed their way into his house and then he allowed them to search it.

  The commissioner felt that, because of conflicting information between the man and the officers about their entry into his house, there was insufficient evidence to justify a public hearing.

  The commissioner wrote to the chief of police and suggested a review of the situation and make changes if necessary.

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Statistical Analysis

- LERA's jurisdiction extends to 14 police services with a police officer complement of 1400. Total population served is 724,730.

- Winnipeg Police Service accounts for 85 per cent of complaints made to LERA. Brandon Police Service for 9 per cent and other forces account for the remainder.

- There were 367 files opened in 2006, an increase of 8 complaints compared to 2005, the 5-year average is 380.

- The 244 formal complaints filed are the fourth highest recorded. As with previous years, this figure remains substantially higher than the number of files for which formal complaints were never received or were closed after a preliminary investigation (123 complaints). This reflects the efforts of LERA to provide better service by following up with complainants to ensure that they are heard.

- Once again, the number of investigations carried over from 2005 combined with new complaints for 2006, is the highest ever and severely taxes LERA staff. In 2005 there were 532 total investigations. In 2006 there were 560 investigations, an increase of 28.

- There was a significant increase in the number of investigations completed over the previous year, from 217 to 324 for a total of 107.

- The average length of time to complete investigations increased to 13 months from 12 months in 2006.

- In 2006 there was an increase in the number of allegations of disciplinary defaults recorded in three of the five main categories: abuse of authority, arrest without reasonable or probable grounds, using unnecessary or excessive force and being discourteous or uncivil. Using oppressive or abusive conduct or language showed a slight decline. When numerous allegations are made in a complaint, the default(s) are recorded at the outset.

- Recent decisions by judges at review hearings indicate that a breach of the *Canadian Charter of Rights and Freedoms* is not in and of itself, an abuse of authority. However, the commissioner must take allegations relating to *Charter* breaches into account when considering a complaint, particularly when a complainant has not been charged with an offence.

- There were three complaints, alleging the misuse of pepper spray in 2006 and one complaint of misuse of the taser.

- Incidents alleging misuse of handcuffs decreased to 25 and were made in 10 per cent of complaints investigated.

- Incidents alleging injuries from the use of force increased to 120 and were made in 49 per cent of complaints investigated.

- The rate of informal resolution of complaints remained in the same range as in 2005. As a public service agency, LERA actively supports and, whenever possible, engages in alternative dispute resolution aimed at restoring social harmony between affected parties. This method of complaint resolution remains a priority and complainants and respondents are encouraged to participate in this process.

- Table 8: The number of complaints abandoned by complainants continues to be higher than in previous years. This is a direct result of LERA investigators contacting complainants after the investigation is completed but before a final letter is written. In many cases, when complainants see the results of the investigation, they then decide to drop the complaint. In other cases when a

LERA investigator is unable to locate the complainant, a letter is sent to the complainant's last known address requesting the complainant to contact the investigator. If contact is not made within 30 days, the complaint is deemed to be abandoned and a registered letter is sent to that effect.

- Table 10: Complainant's requests for reviews by a provincial judge of the commissioner's decision decreased from 11 to 5 in 2006.

- Table 11 and 12: LERA is not mandated to conduct criminal investigations. Where a matter before the commissioner or a provincial judge discloses evidence that a member may have committed a criminal offence, the commissioner or provincial judge shall report the possible criminal offence to the attorney general.

- In recent years, if there is an implication of criminal misconduct, LERA investigators will inform the complainant that a criminal complaint may also be made to the police force where the incident occurred. In 2006, 21 criminal complaints were lodged with police where a LERA complaint was also filed. However, there was one incident that arose where the commissioner was required to report a possible criminal offence to the attorney general.

- Table 13 and 14; Although there has been a marked improvement in the number of cases where criminal investigations are still ongoing after a lengthy period of time, there are still some that fall into this category. In one particular case, a criminal investigation was reported as still open when, in fact, the file had been closed. This lead to a one year delay in reporting to LERA with the correct information. Criminal investigation delays continue to be a subject of discussion between the commissioner and the police forces involved.

2006 Statistical Report – Data Tables

Table 1: Complaints Listed by Police Service	Police Officers **	Population ***	2006 (n=244)	2005 (n=251)	2004 (n=252)	2003 (n=250)	2002 (n=227)
Altona	7	3,434	0	0	0	1 (0.5%)	0
Brandon	71	39,716	23 (9%)	19 (7.2%)	14 (6%)	16 (6%)	14 (6%)
Dakota Ojibway (DOPS)	26	10,424	4 (1.6%)	5 (2.0%)	2 (.8%)	7 (3%)	17 (7%)
RM East St. Paul	10	7,677	7 (3%)	2 (1%)	1 (.4%)	0	0
Morden	7	6,142	0	0	0	0	0
Rivers	3	1,119	1 (0.4%)	1 (0.4%)	0	0	0
Ste. Anne	3	1,513	0	0	1 (.4%)	0	0
Winkler	13	7,943	0	0	2 (.8%)	0	0
Winnipeg	1254	619,544	207 (85%)	223 (89%)	228 (90%)	225 (90%)	195 (86%)
*RM Cornwallis	1	3,779	0	0	0	0	0
*RM Springfield	2	12,602	0	0	0	0	0
*RM St. Clements	1	9,115	0	0	0	0	0
*RM Victoria Beach	1	265	1 (0.4%)	0	1 (.4%)	0	1 (1%)
*RM of Whitehead	1	1,457	0	0	2 (.8%)	0	0
Other	0	0	1 (0.4%)	1 (0.4%)	1 (.4%)	1 (.5%)	0
Total	**1400**	**724,730**	**100%**	**100%**	**100%**	**100%**	**100%**

* Supplementary police service – RCMP have primary responsibility
** Source: Director, Aboriginal and Community Law Enforcement, Manitoba Justice
*** Source: Statistics Canada, Dakota Ojibway Police Commission

Table 2: Public Complaints	2006	2005	2004	2003	2002
Files opened	367	375	367	421	372
Resolved at intake	123	124	115	171	145
Formal complaint received	244	251	252	250	227

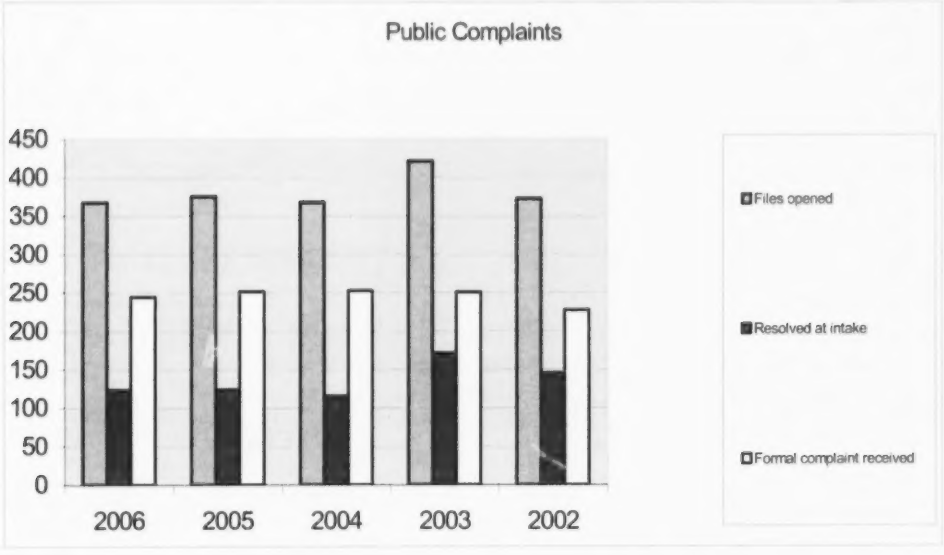

Table 3: Investigations Conducted	2006	2005	2004	2003	2002
Total investigations	560	532	495	447	430
Investigations completed - files closed	324	217	216	205	235
Ongoing investigations carried over as of December 31, 2006	236	315	279	242	195

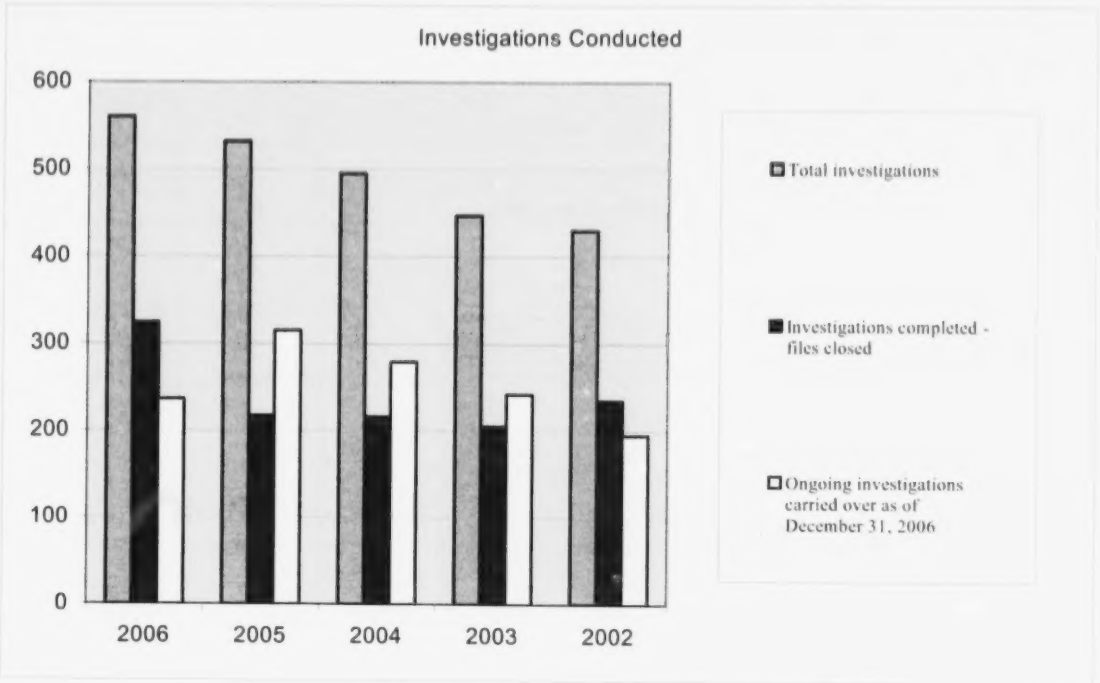

Table 4: Complainants' Allegations: Discipline Code Section 29 *The Law Enforcement Review Act*	**2006**	**2005**	**2004**	**2003**	**2002**
Abuse of authority Sec. 29(a)	112	109	114	167	137
Arrest without reasonable or probable grounds Sec. 29(a)(i)	64	16	24	20	24
Using unnecessary or excessive force Sec. 29(a)(ii)	157	130	149	136	108
Using oppressive or abusive conduct or language Sec. 29(a)(iii)	123	145	125	114	110
Being discourteous or uncivil Sec. 29 (a)(iv)	86	79	77	114	107
Seeking improper personal advantage Sec. 29(a)(v)	1	0	1	1	0
Serving civil documents without proper authorization Sec. 29(a)(vi)	1	1	1	0	0
Differential treatment without cause- Sec. 29(a)(vii) The Human Rights Code Sec. 9(2)	32	23	21	12	13
Making false statement(s) Sec. 29(b)	15	11	14	8	9
Improperly disclosing information Sec. 29(c)	2	4	4	6	3
Failing to exercise care or restraint in use of firearm Sec. 29(d)	3	5	0	3	0
Damaging property or failing to report damage Sec. 29(e)	4	7	5	5	9
Failing to provide assistance to person(s) in danger Sec. 29(f)	13	8	4	2	6
Violating person's privacy (under *The Privacy Act)* Sec. 29(g)	2	1	0	0	1
Contravening *The Law Enforcement Review Act* Sec. 29(h)	1	0	1	0	0
Assisting any person committing a disciplinary default Sec. 29(i)	0	0	0	0	0

Table 5: Incidents Alleging Misuse of Pepper Spray/Taser			
2006 (n=4)	**2005 (n=1)**	**2004 (n=5)**	**2003 (n=4)**
2% of 244 complaints investigated Winnipeg=3 (Pepper spray) Brandon=1 (Taser)	0.4% of 251 complaints investigated Winnipeg=1	2% of 252 complaints investigated Winnipeg=4 Brandon=1	2% of 250 complaints investigated Winnipeg=4

Table 6: Incidents Alleging Misuse of Handcuffs			
2006 (n=25)	**2005 (n=31)**	**2004 (n=42)**	**2003 (n=26)**
10% of 244 Complaints Winnipeg = 23 East St. Paul=1 DOPS=1	12% of 251 Complaints Winnipeg = 30 Brandon=1	17% of 252 complaints investigated Winnipeg=39 Brandon=3	10% of 250 complaints investigated Winnipeg=25 Brandon=1

Table 7: Incidents Alleging Injuries from Use of Force			
2006 (n=120)	**2005 (n=113)**	**2004 (n=125)**	**2003 (n=106)**
49% of 244 complaints Winnipeg=114 Brandon=2 DOPS=2 East St Paul=2	45% of 251 complaints Winnipeg=104 Brandon=2 DOPS=3 East St Paul=1	50% of 252 complaints Winnipeg=120 Brandon=4 RM Whitehead=1	42% of 250 complaints investigated Winnipeg = 101 Brandon = 2 DOPS = 3

Table 8: **Disposition of Complaints**	**2006** **(n=324)**	**2005** **(n=217)**	**2004** **(n=216)**	**2003** **(n=205)**	**2002** **(n=235)**
Dismissed by commissioner as outside scope of act	41 (13%)	40 (18%)	22 (10%)	26 (13%)	28 (12%)
Dismissed by commissioner as frivolous or vexatious	6 (2%)	2 (1%)	1 (0.5%)	26 (13%)	32 (14%)
Dismissed by commissioner as not supported by sufficient evidence to justify a hearing	92 (28%)	53 (24%)	56 (26%)	64 (31%)	81 (34%)
Abandoned or withdrawn by complainant	163 (50%)	103 (47%)	117 (54%)	80 (39%)	75 (32%)
Resolved informally	5 (2%)	4 (2%)	5 (2%)	6 (3%)	8 (3%)
Public hearing before a provincial court judge	16 (5%)	15 (7%)	15 (7%)	5 (1%)	12 (5%)
Admission of guilt by respondent officer	1 (0.3%)	0	0	0	0

Table 9: Legal Involvement of Complainants	2006 (n=244)	2005 (n=251)	2004 (n=252)	2003 (n=250)	2002 (n=227)
No charges	101 (41%)	112 (45%)	83 (33%)	91 (36%)	107 (47%)
Traffic offences	28 (11%)	11 (4%)	23 (9%)	17 (7%)	21 (9%)
Property offences	17 (7%)	25 (10%)	47 (19%)	37 (15%)	14 (6 %)
Intoxicated persons detention	8 (3%)	13 (5%)	14 (6%)	8 (3%)	8 (4%)
Cause disturbance	3 (1%)	1 (0.4%)	2 (0.8%)	1 (.4%)	3 (1%)
Assault police officer/resist arrest	30 (12%)	31 (12%)	23 (9%)	21 (8%)	17 (8%)
Impaired driving	3 (1%)	1 (0.4%)	5 (2%)	3 (1%)	3 (1%)
Offences against another person	27 (11%)	24 (10%)	18 (7%)	21 (8%)	12 (5 %)
Domestic disputes	1 (0.4%)	3 (1%)	9 (4%)	5 (2%)	5 (2 %)
Other	26 (11%)	30 (12%)	28 (11%)	46 (18%)	37 (16 %)

Table 10: Reviews by Provincial Judge of Commissioner's Decision to Take No Further Action	2006	2005	2004	2003	2002
	5	11	12	13	22

Table 11: Referrals of Complaint to Crown for Criminal Investigation	2006	2005	2004	2003	2002
	1	0	0	0	0

Table 12: LERA Complaints Where Complainant Lodged a Criminal Complaint with Police	2006	2005	2004	2003	2002
	21	27	11	11	19

Table 13: Time Span of Ongoing Investigations Carried Over as of December 31, 2006

YEAR	1-3 Months	4-7 Months	8-12 Months	13-18 Months	19-23 Months	24+ Months	Total
2001	0	0	0	0	0	1	1
2002	0	0	0	0	0	2	2
2003	0	0	0	0	0	4	4
2004	0	0	0	0	1	36	37
2005	0	0	5	30	15	1	51
2006	58	58	25				141
Total	**58**	**58**	**30**	**30**	**16**	**44**	**236**

Table 14: Files Concluded in 2006 by Year of Origin

Year	Number of Files	Average Time to Close Investigation
2001	2	57.5 months
2002	8	44 months
2003	12	32 months
2004	64	22 months
2005	135	11 months
2006	103	4 months
Total	324	13 months

Table 15: Length of Time to Complete Investigations	2006 (n=324)	2005 (n=217)	2004 (n=216)	2003 (n=205)	2002 (n=235)
1-3 Months	74	42	35	44	46
4-7 Months	42	42	42	63	51
8-12 Months	75	46	47	46	58
13-18 Months	57	34	39	28	29
19-23 Months	23	22	26	11	23
24+ Months	53	31	27	13	28
Average	13 months	12 Months	13 Months	9 months	12 months

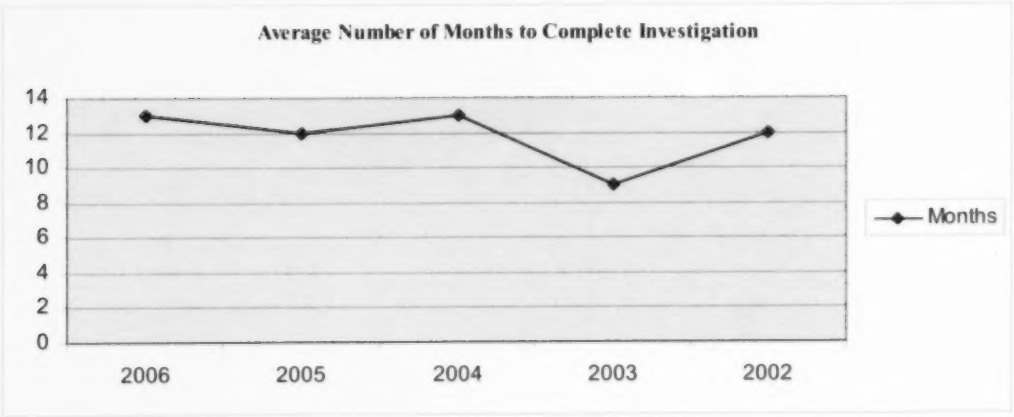

Table 16: Location of Incident	2006 (n=244)	2005 (n=251)	2004 (n=252)	2003 (n=250)	2002 (n=227)
Street	108	68	102	83	79
Private residence	61	97	62	75	67
Public building/place	15	25	17	23	18
Police station	37	46	49	49	35
Other	23	15	22	20	28

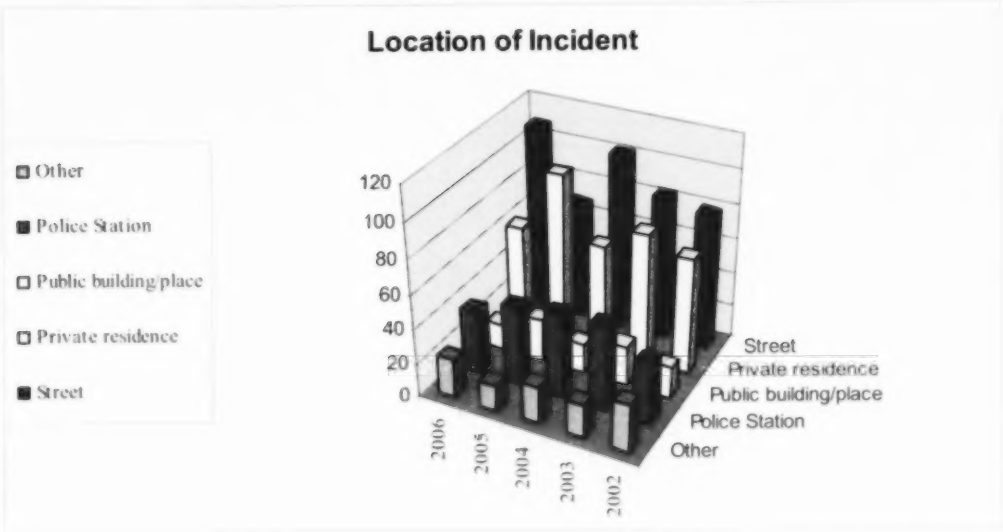

Table 17: Complainant Demographics	2006 (n=244)	2005 (n=251)	2004 (n=252)	2003 (n=250)	2002 (n=227)
Sex					
Male	164 (67%)	171 (68%)	181 (72%)	172 (69%)	152 (67%)
Female	80 (33%)	80 (32%)	71 (28%)	78 (31%)	75 (33%)
Age					
Over 50	25 (10%)	30 (12%)	13 (5%)	33 (13%)	23 (10%)
40 - 49	40 16%)	48 (19%)	35 (14%)	32 (13%)	40 (18%)
30 - 39	40 (16%)	48 (19%)	44 (17%)	45 (18%)	53 (23%)
18 – 29	73 (30%)	56 (22%)	67 (27%)	55 (22%)	64 (28%)
Youth under 18	32 (13%)	39 (16%)	57 (23%)	44 (18%)	14 (6%)
Birth dates unknown	34 (14%)	30 (12%)	36 (14%)	41 (16%)	33 (15%)

Includes 10% post-consumer waste